

UNITED STATES DISTRICT COURT
TERRITORY OF GUAM

ALAN SADHWANI, LAJU SADHWANI, and K.
SADHWANI'S INC., a Guam Corporation,

Plaintiffs,

v.

HONG KONG AND SHANGHAI BANKING
CORPORATION, LTD., et al.,

Defendants.

CIVIL CASE NO. CV-03-00036

ORDER

This matter is before the Court on the Ex Parte Application and Objections to Magistrate Judge's Oral Order Denying Motion for Protective Order filed by defendant Hong Kong & Shanghai Banking Corporation, Ltd. ("HSBC") on October 12, 2004. HSBC states that "[i]t is important and urgent that the Ex Parte Application and Objections be heard as soon as possible because Plaintiffs improperly noticed in Guam the depositions of Christopher Page and Magnus Montan, Hong Kong residents, for October 12 and 14, 2004, respectively, the Magistrate Judge denied HSBC's Motion for a Protective Order, and the Magistrate Judge refused to stay his oral Order pending a decision by this Court on the Objections..." (Ex Parte Application and Objections to Magistrate Judge's Oral Order Denying Motion for Protective Order at 2). However, it has come to the attention of the Court that HSBC has provided notice that Christopher Page would not appear for his deposition due to his unavailability.

The Court will not consider the motion ex parte and will instead set the matter for hearing so that all parties and the Court can be properly prepared. Under Fed.R.Civ.P. 72(a), "[w]ithin 10 days after being served with a copy of the magistrate judge's order, a party may serve and file objections

1 to the order... The district judge to whom the case is assigned shall consider such objections and shall
2 modify or set aside any portion of the magistrate judge's order found to be clearly erroneous or
3 contrary to law." Here, ruling in this matter right now strikes the Court as premature since the
4 Magistrate Judge has yet to issue a written order. Moreover, because the Magistrate Judge has yet to
5 issue a written order, this Court does not know the basis for the Magistrate Judge's ruling. It is
6 impossible for this Court to determine if the order is clearly erroneous or contrary to law without the
7 Magistrate Judge's reasoning before it. The Court notes that Christopher Page did not appear for his
8 deposition today. The Court finds that the proper course is to wait for the Magistrate Judge to issue
9 his written decision and have all parties properly brief the Court.

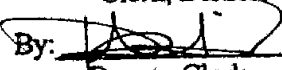
10 Based on the foregoing, it is ORDERED that HSBC's Ex Parte Application and Objections
11 to Magistrate Judge's Oral Order Denying Motion for Protective Order filed on October 12, 2004 is
12 DENIED. HSBC is free to file its objections when the Magistrate judge issues his written order.

13 DATED this 12TH of October, 2004,

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16 Alex R. Munson
Designated Judge, United States District Court

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21 Notice is hereby given that this document was
22 entered on the docket on OCT 13 2004.
23 No separate notice of entry on the docket will
be issued by this Court.

24 Mary L. M. Moran
Clerk, District Court of Guam

25 By:  OCT 13 2004
26 Deputy Clerk Date
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